IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

Bail Appl..No. 7165 of 2007()

CRIME NO.415/07 OF KADAKKAL POLICE STATION.

PETITIONER : ACCUSED:

SHIJU, S/O.BABU, CHARUVILA PUTHENVEEDU,
MALAPPURAM CHIRAVOOR, CHITHARA, KOLLAM DISTRICT.

BY ADV. SRI.SAJU.S.A

RESPONDENTS: STATE:

STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE, KAKAKKAL POLICE STATION
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7165 OF 2007

Dated this the 23rd day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under Sec.498A of the IPC. He faces allegations of matrimonial cruelty. The crux of the allegations is that the petitioner was in love with the de facto complainant/the victim. They were in love for about 2 ½ years. Later, on 11/6/07 they got married as per a registered document executed by them. After the execution of the document, the petitioner was allegedly residing with the de facto complainant and her parents at her house. He allegedly was found missing from 5/7/07. The de facto complainant lodged a complaint before the police and a crime was registered under the caption “man missing”. In the course of investigation, he appeared before the police and that proceedingS was dropped. Long later, on

8/10/07 the de facto complainant filed a complaint in which it is alleged that the petitioner, who had willingly and voluntarily married her on 11/6/07, demanded dowry after the marriage and he went away after assaulting her on 5/7/07. A crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the marriage agreement dated 11/6/07 was not willingly and voluntarily executed. He was compelled under duress to be party to such a document. He has not stayed with the woman. It is evident that the petitioner did not live with the woman in spite of the agreement though he was constrained to execute such a document. The learned counsel for the petitioner heavily relies on the absence of crucial and vital averments relating to matrimonial cruelty in the First Information Statement lodged in the man missing case. Subsequent allegations about the matrimonial cruelty are only inventions to suit the occasions, submits learned counsel for the petitioner.

3. The learned Public Prosecutor does not oppose the application for anticipatory bail. The Case Diary has been placed before me for my perusal. A copy of the First Information Statement in the man missing case is also made

available for my perusal. I have perused the same. Having considered all the relevant inputs, I am persuaded to agree that this is a fit case where anticipatory bail can be granted to the petitioner subject, of course, to appropriate conditions which shall ensure the interests of a fair, efficient and expeditious investigation.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 30/11/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 1/12/07 and 2/12/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall

thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 30/11/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 30/11/07.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge